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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA—WESTERN DIVISION**

CARL MITCHELL, et al.,
PLAINTIFFS,

v.
CITY OF LOS ANGELES, et al.,
DEFENDANTS.

Case No.: 16-cv-01750 SJO (JPR)

[PROPOSED] ORDER RE PLAINTIFFS'
EX PARTE APPLICATION FOR A
TEMPORARY RESTRAINING ORDER
AND/OR ORDER TO SHOW CAUSE RE:
ISSUANCE OF A PRELIMINARY
INJUNCTION

Date: None
Time: None
Ctrm: 1

Action Filed: March 14, 2016

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ATTORNEYS FOR PLAINTIFFS

1 Plaintiffs' Ex Parte Application for a Temporary Restraining Order has been
 2 considered by the Court. Based on a review of all pleadings, declarations, and
 3 exhibits filed in support of an opposition to the Application, the Court finds good
 4 cause to order the requested relief.

5 Plaintiffs are homeless individuals and organizations residing in and
 6 operating in the Skid Row area of Los Angeles. They have shown that they have
 7 suffered a significant violation of their Fourth and Fourteenth Amendment rights in
 8 that the City summarily seized and immediately destroyed Plaintiffs' property and
 9 that the City failed to provide sufficient due process with regards to any items that
 10 were not summarily destroyed, that these actions have occurred over the course of
 11 several months and is likely to recur unless the Court grants the requested relief.
 12 The Court notes that the specific conduct challenged by this action, including the
 13 summary destruction of property, has been the subject of multiple lawsuits against
 14 the City over the past two decades, and was recently the subject of litigation in this
 15 District, which resulted in the Ninth Circuit ruling against the City. *See Lavan v.*
 16 *City of Los Angeles*, 693 F.3d 1022 (9th Cir. 2012).

17 The Court finds that the balance of the hardships tips sharply in Plaintiffs'
 18 favor in this instance. They have shown a strong likelihood of prevailing on the
 19 merits and that they have and will continue to suffer irreparable injury if the
 20 requested relief is not granted. *Walczak v. EPL Prolong, Inc.*, 198 F.3d 825, 831
 21 (9th Cir. 1999). The loss of a constitutional right is, in itself, sufficient injury to
 22 justify issuance of an injunction. *Associated Gen. Contractors of Cal., Inc. v.*
 23 *Coalition for Econ. Equal.*, 950 F.2d 1401, 1412 (9th Cir. 1991); *Guitierrez v.*
 24 *Municipal Ct.*, 838 F.2d 131, 1045 (9th Cir. 1988), *vacated as moot*, 490 U.S. 1016.

25 Issuance of the injunction is in the public interest as well, as "[t]he public has
 26 a fundamental interest in the protection of all people's constitutional rights." *See*
 27 *Sammartano v. First Judicial District Ct.*, 303 F.3d 959, 973 (9th Cir. 2002).

1 Accordingly, it is ordered that:

2 Pending a hearing on the preliminary injunction, Defendant CITY, its agents
3 and employees, are hereby enjoined from doing any of the following:

- 4 1. Destroying property that is seized incident to arrest or as part of a noticed
5 cleanup on the sidewalks or streets;
- 6 2. Seizing property that belongs to an individual who is present during a
7 clean up;
- 8 3. Seizing property incident to an arrest that does not belong to the arrestee;
- 9 4. Storing property in any facility that is not accessible to an arrestee
10 immediately upon release from custody;

11 Defendant CITY, its agents and employees, is further directed to provide
12 notice that is accurate and sufficient to notify an arrestee or individual whose
13 belongings are seized where and when the items can be retrieved.

14 An Order to Show Cause why a preliminary and/or permanent injunction
15 should not issue is set for _____, 2016. Any additional briefing by the
16 defendant is to be filed no later than _____. Any responsive briefing by
17 the Plaintiffs is to be filed no later than _____.

18 The Court finds that it is appropriate to waive the requirement that Plaintiffs
19 file an injunctive bond in this instance. *Barahona-Gomex v. Reno*, 167 F.3d. 1228,
20 1237 (9th Cir. 1999)

21 **IT IS SO ORDERED.**

22
23 Dated:_____

24 UNITED STATES DISTRICT JUDGE

25 Lodged by:
26 LAW OFFICE OF CAROL A. SOBEL

/S/ Carol A. Sobel

27 By: Carol A. Sobel
28 Attorneys for Plaintiffs